

ORIGINAL

BEFORE THE  
Federal Communications Commission

WASHINGTON, D.C.

In the Matter of )

Amendment of Section 73.202(b) )

Table of Allotments )

FM Broadcast Stations )

(Winner and Wessington Springs, )

South Dakota) )

MM Docket No. 96-124

RM-8813

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JUL 29 1996

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

To: Chief, Allocations Branch  
Mass Media Bureau

**COMMENTS AND COUNTERPROPOSAL**

Dakota Communications, Ltd. ("Dakota"), by its attorneys, respectfully submits its Comments and Counterproposal in response to the Notice of Proposed Rulemaking, DA-96-881, issued by the Chief, Allocations Branch, on June 7, 1996 (the "Notice"). As discussed below, Dakota opposes the complex substitution and reallocation process contemplated by the Notice, which will remove one of only two FM channels allocated to Winner, South Dakota, and provide an allotment at Wessington Springs, South Dakota, which is not available for application by interested parties. Dakota counterproposes that Channel 251C1 be allocated to Wessington Springs, which will permit the retention of existing Channel 253C1 in Winner and will make available an FM allotment in Wessington Springs which is available to potential applicants, such as Dakota.

1. Dakota Communications, Ltd., is the licensee of stations KOKK(AM) and KZKK(FM), Huron, South Dakota. It is an applicant for Commission consent to acquire the assets of KIUL(AM), Garden City, Kansas, and for a new FM broadcast station on Channel 242C1 at

Ingalls, Kansas. Dakota is interested in establishing a Class C1 station at Wessington Springs, and will, if the counterproposal set forth herein is adopted, promptly apply for consent to construct an FM station using the proposed allotment, and, if its application is granted, promptly construct a Class C1 station to serve that community and the surrounding area.

2. Dakota opposes the substitution of Channel 252C1 for Channel 253C1 at Winner, South Dakota, and the subsequent reallocation of Channel 252C1 from Winner to Wessington Springs, South Dakota. The complicated substitution and reallocation process proposed in the Notice would deprive Winner of one of only two FM allotments, and would not result in the opportunity for interested parties, such as Dakota, to apply for an FM facility at Wessington Springs. Indeed, the Notice specifically states that the Commission “will not accept competing expressions of interest in the use of Channel 252C1 at Wessington Springs.” Notice at para. 4. In view of Dakota’s own expressed desire to establish a new FM station at Wessington Springs, it would be inappropriate for the Commission to allot a channel to that community that is not available for open application unless there is no other way to provide Wessington Springs with its first aural broadcast service.

3. In fact, however, there is no need to go to the extreme of substituting Channel 252C1 for Channel 253C1 at Winner, only to reallocate Channel 252C1 to Wessington Springs. As indicated in the attached Engineering Statement of Vir James, P.C., Channel 251C1 can be allotted at Wessington Springs without affecting Channel 253C1 at Winner or any other allotment. Indeed, Channel 251C1 is fully spaced at the reference site specified in the Engineering Statement, which reference site is near the center of Wessington Springs.

4. Channels 251C1 and 252C1 are first adjacent channels and therefore cannot both be allocated to Wessington Springs. Given the choice between the two channels, it is clear that the

Channel 251C1 allotment is preferable, as it does not require the deallocation of the second FM allotment at Winner.

5. Dakota therefore counterproposes that the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, be amended to read as follows:

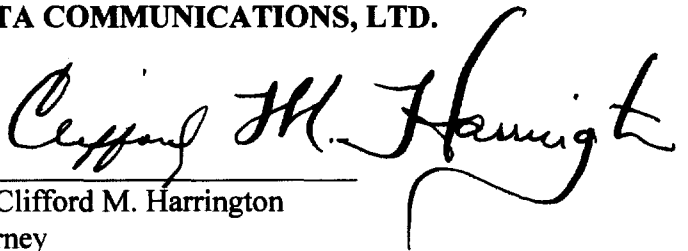
<u>City</u>	<u>Channel No.</u>	
	<u>Present</u>	<u>Proposed</u>
Winner, South Dakota	229C1, 253C1	229C1, 253C1
Wessington Springs, South Dakota	---	251C1

If the proposed allotment is adopted, Dakota will, as indicated above, promptly apply for the counterproposed allotment, and, if granted, construct and place into service a new FM station on Channel 251C1 at Wessington Springs.

For the reasons set forth above, Dakota Communications, Ltd., respectfully requests that the proposed change in the Table of Allotments set forth in the Notice be rejected and the counterproposal set forth herein be adopted in its stead.

Respectfully submitted

DAKOTA COMMUNICATIONS, LTD.

By   
Clifford M. Harrington  
Its Attorney

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PROPOSED FM RULEMAKING  
DAKOTA COMMUNICATIONS, LTD.  
98.1 MHz CH.251C1  
WESSINGTON SPRINGS, SOUTH DAKOTA

**FCC**

#### ENGINEERING STATEMENT

Concerning an alternate petition for Rulemaking to allocate FM Channel 251C1 to Wessington Springs, South Dakota.

Dakota Communications, LTD., herein requests that the FCC allocate Channel 251C1 to Wessington Springs in order to provide a first local service to Wessington Springs and its market area.

Vir James Engineers, Broadcast Engineering Consultants, has been retained by the petitioner to determine and show that the above described allocation may be made within the requirements of the FCC Rules and Regulations.

There are no existing unused allocations to Wessington Springs as of the date of this statement. Midwest Radio Corporation has requested assignment of Channel 252C1 to Wessington Springs with the deletion of Channel 253C1 at Winner, South Dakota. We believe that Channel 251 C1 is a better choice for assignment to Wessington Springs since it does not require reduction of authorized services to the community of Winner.

This would be the first local commercial FM service to Wessington Springs, a city of 1,093 population according to the 1990 census. Wessington Springs is the county seat of Jerrauld County.

#### ALLOCATION STUDY

Availability of Channel 251C1 to Wessington Springs was determined by computer aided study of all existing stations, pending applications, and pending rulemakings within 330 km of the reference site near the center of Wessington Springs.

Reference Site  
NL: 44 deg 05 min 00 sec  
WL: 98 deg 34 min 00 sec

All distances from this site to stations were computed using the tables of FCC rules Section 73.698. All distances are in the metric system.

PROPOSED FM RULEMAKING  
 DAKOTA COMMUNICATIONS, LTD.  
 98.1 MHz CH.251C1  
 WESSINGTON SPRINGS, SOUTH DAKOTA

The separations for the proposed channel assignment are as follows:

Wessington Springs Channel 251C1  
 Table of Nearest Facilities

CH.	FREQ	COMMUNITY	CALL	SEPARATION	
				ACTUAL	MINIMUM
248A	97.5	Alta IA	NEW	305 km	75 km
249A	97.7	Redfield SD	ALLOC	88	75
249C1	97.7	Redwood Falls MN	KLGR	278	82
250C1	97.9	Sioux City IA	KSEZ	258	144
251C	98.1	No Station or Allocation within 330 km			
252A	98.3	Broken Bow NE	KBBN	311	133
253C1	98.5	Winner SD	KGGK	136	82
254C	98.7	Pipestone MN	KISDCP	211	105

There are no FM channels 10.6 or 10.8 MHz removed from 98.1 MHz so no Intermediate Frequency interference can result from the assignment.

The proposed Channel 251C1 assignment to Wessington Springs meets the separation criteria for assignment as set forth in section 73.207 as amended to date.

From this study it has been determined that the Table of FM Allotments, Section 73.202 of the FCC Rules may be amended as follows:

Community	Present	Proposed
Wessington Springs, SD	none	251C1

Such an amendment of the Table of Allotments would be in full compliance with the FCC Rules and Regulations as amended to date and will be a more efficient assignment not requiring the elimination of authorized service to any community.



Respectfully submitted

*Timothy C Cutforth*

Timothy C. Cutforth P.E.  
 20 June 1996

STATE OF COLORADO

EXHIBIT E-1B-1

CITY AND COUNTY OF DENVER

TIMOTHY C. CUTFORTH, BEING DULY SWORN, STATES

That he is a Consulting Radio Engineer with offices located at 965 South Irving Street, Denver, Colorado 80219.

That he is President and Director of Engineering with Vir James, P.C. Consulting Radio Engineers, Denver, Colorado.

That he received a degree of Bachelor of Science, with major in Electrical Engineering from Colorado State University at Fort Collins, Colorado in 1972.

That he is a Registered Professional Engineer (No. 16905) in the State of Colorado.

That he is a certified Professional Broadcast Engineer (50046) by the Society of Broadcast Engineers, Inc.

That he is a member of the Society of Broadcast Engineers, Inc. (No. 3813).

That he is a full member of the Association of Federal Communications Consulting Engineers.

That he is a member of the IEEE.

That he is a qualified and experienced Radio and Television Engineer whose qualifications are a matter of record with the Federal Communications Commissions.

That he is a life member of the Broadcast Pioneers.

That the calculations and/or measurements and exhibits in the accompanying report were made by him personally or under his direction, and that all facts contained herein are true of his own personal knowledge or belief: and on such statements made on belief, they are believed to be true.

Timothy C. Cutforth

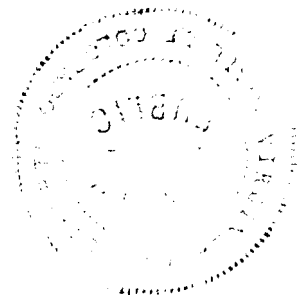
Affiant

Subscribed and sworn to before me

This 20th day of June 1996

Notary Public Virginia K. Cutforth

Date of Commission Expiration December 21, 1996

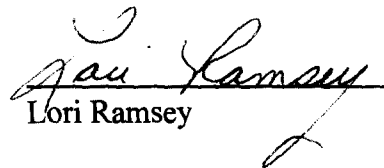


**CERTIFICATE OF SERVICE**

I, Lori Ramsey, do hereby certify that I have this 29th day of July, 1996, mailed by first-class United States mail, postage prepaid, copies of the foregoing "**COMMENTS AND COUNTERPROPOSAL**" to the following:

\*John A. Karousos  
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Lori Ramsey

**\*Hand Delivery**